

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.479 of 2017

Arising Out of PS.Case No. -null Year- null Thana -null District- GAYA

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1. Ashish Mandal @ Ashish Kumar Mandal, Son of Late S.S. Mandal, Resident of Village- Keshpur, P.S.- Keshpur, District- Paschim Midnapur (West Bengal).

.... Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate, Gaya.
3. The Assistant Sub-Inspector of Excise, Prahar Bal, Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arvind Kumar Singh, Advocate
Mr. Mukul Jee, Advocate

For the Respondent/s : Mr. Anurag Saurav, SC-2

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 30-06-2017

Heard learned counsel for the petitioner and the State.

The Maruti Ertica vehicle of this petitioner, bearing registration No.WB-34AN-4885, was seized in connection with Gaya Excise Case No.142 of 2016 on the allegation that the same was carrying 600 ml of foreign liquor.

The petitioner filed a petition before the learned Additional Chief Judicial Magistrate, Sherghati, Gaya, for release of the aforesaid vehicle and the prayer has been refused by the impugned order dated 29.09.2016 for the reason that a confiscation proceeding is already going on before the Collector, Gaya.

Submission of the petitioner is that the question of law as to whether the Collector has authority to confiscate and auction the vehicle, which is a judicial function, is subjudice before a larger



Bench of this Court in LPA No.1647 of 2015 and considering the pendency of the aforesaid LPA in other matters also different Division Benches of this Court have ordered for interim release of the vehicle in favour of the owner.

Learned counsel for the respondent has no objection in interim release of the vehicle in favour of the petitioner. However, his submission is that release would be subject to the result of the L.P.A. and the pending confiscation proceeding.

Considering the facts and circumstances above, let the aforesaid vehicle be released in favour of the petitioner after verification of the ownership of the vehicle of the petitioner by way of ad-interim custody on execution of surety bond of Rs.6,00,000/- (Six Lacs) along with two sureties of the like amount with condition that the petitioner would not dispose of the said vehicle without permission of the authority concerned and shall produce as and when required by the Court. This order shall be subject to the result of the L.P.A. aforesaid.

With the aforesaid observation, this writ application stands disposed of.

(Birendra Kumar, J)

Mkr./-

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CAV DATE	
Uploading Date	06.07.2017
Transmission Date	06.07.2017

